



## City of Seattle

Gregory J. Nickels, Mayor

### Department of Design, Construction and Land Use

Diane M. Sugimura, Director

## CITY OF SEATTLE ANALYSIS AND DECISION OF THE DIRECTOR OF THE DEPARTMENT OF DESIGN, CONSTRUCTION AND LAND USE

**Application Number:** 2301251  
**Applicant Name:** Jennifer Grant for the Port of Seattle  
**Address of Proposal:** 7001 Seaview Avenue NW

### **SUMMARY OF PROPOSED ACTION**

Shoreline Substantial Development Permit to install a 200 sq.ft. manufactured storage shed and two, 250-gallon oil tanks adjacent to the shed on an existing fuel dock (Central Pier at Shilshole Bay Marina). Existing shed to be demolished. Determination of Non-Significance prepared by the Port of Seattle.

Seattle Municipal Code (SMC) requires the following approvals:

**Shoreline Substantial Development Permit** - To allow construction of storage shed accessory to an existing recreational marina in an Urban Stable (US) shoreline environment. (SMC 23.60.020 and 23.60.600 B)

**SEPA** - For conditioning only. (Chapter 25.05 Seattle Municipal Code)

**SEPA DETERMINATION:**      ☐ Exempt   ☒ DNS<sup>1</sup>   ☐ MDNS   ☐ EIS  
  
   ☐ DNS with conditions  
  
   ☐ DNS involving non-exempt grading or demolition or  
   involving another agency with jurisdiction.

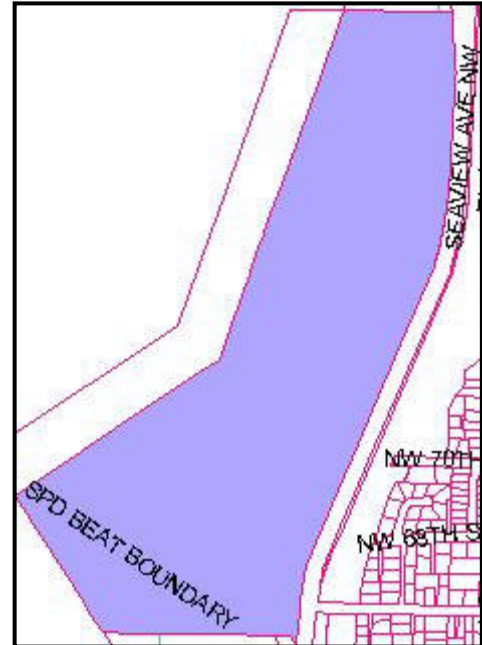
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<sup>1</sup> The Port of Seattle has acted as lead agency and issued its SEPA threshold determination on March 10, 2003.

## **BACKGROUND DATA**

### **Site Location**

Shilshole Bay Marina is located on the east shore of Puget Sound, north of West Point, near the entrance to Salmon Bay Waterway. The marina is bordered by Golden Gardens Park on the north, Seaview Avenue Northwest on the east, Sunset West Condominiums on the south, and Puget Sound on the west. Central Pier, as its name implies, is located near the center of the marina, between I-dock and J-dock. There is paved pedestrian and vehicular access at the head of the pier along the north side of the existing administration building. The property is within an Urban Stable (US) shoreline environment and an underlying Commercial 1 (C1) zone with a 40-ft height limit (C1 40' US).



### **Project Description**

**Existing Facility** – Shilshole Bay Fuel Dock LLC currently operates a marine vessel fueling facility on Central Pier at Shilshole Bay Marina. The existing fuel dock float at the west end of Central Pier is approximately 30-ft by 194-ft in size. The float was constructed and installed in 1963 and is equipped with nine fuel pumps that are located in the center of the float along the majority of its length. The fuel float is anchored in place with nine steel pilings. Central Pier is supported on 291 treated timber piles. On the west end of the fuel float there is a 24-ft by 27-ft single-story store located approximately 3 feet from the end of the float. On the east end, a steel gangway provides access to and from the fixed portion of the Central Pier. The gangway is located on the south side of the float. Also on the east end of the float is an 8-ft wide by 14-ft long and 9-ft high small shed formerly used as an icehouse. The shed is of timber construction with a steel interior and exterior sheeting and roofing. Currently, the shed serves as storage for lube and fuel accessories (drums).

**Proposal** - Shilshole Bay Fuel Dock LLC is attempting to find ways to increase efficiency of the facility, provide for easier and lower-cost oil changes for boaters, provide for more environmentally-sound practices for oil-change, and provide alternatives for more efficient fuel sources including biodiesel fuel.

**Marine Lube Center** – The applicant proposes to manually remove the existing shed (the former icehouse) in pieces and replace it with a pre-manufactured shed that is 10-ft wide by 20-ft long with a height of approximately 15-ft, and weighing approximately 4,000 pounds empty to serve as a new “marine lube center”. The northeast corner of the pre-manufactured shed will be located no less than 4.4-ft from the north side of the fuel float and 15-ft from the east end of the fuel float, just north of the existing gangway as recommended by structural engineers, for maximum stability level<sup>2</sup>.

<sup>2</sup> Reid Middleton, September 2002.

The manufacturer of the new shed proposes to manually carry the materials to the site and place and anchor the shed to 4-in by 6-in or 6-in by 6-in treated timber skids. The skids will then be anchored to the fuel float with steel angles. Four anchors should be installed along the length of the shed at each corner, for a total of 16 anchors.

Two 30-in wide by 70-in long oil tanks with up to 250-gallon capacity size will be placed adjacent to the east end of the shed, and two 30-in wide by 70-in long oil tanks with up to 250-gallon capacity size will be placed within the shed along with all equipment and attachments associated with the shed and oil pump accessories. A cumulative total capacity of approximately 1,000-gallons will be provided from the four tanks.

A Spill Prevention Control and Countermeasures (SPCC) Plan is currently in design for the lube center and will be certified by a licensed Professional Engineer. The design will include a double-wall secondary tank containment system, a shut-off valve at the tank to prevent overfills, a fuel line shut off valve for boats that attempt to leave with the fuel line attached, an overspill management plan, and a tank operation plan in accordance with Coast Guard and EPA SPCC guidelines.

The project also proposes new acrylic signage on the outside of the existing store building, on the outside of the new pre-manufactured building and on the old dock attendant shed. The signage will advertise the YachtCare oil change and repair services. It would also feature Chevron lubricant products, groceries, ice, and bait.

#### Public Comments

Public notice of the project application was published on April 10<sup>th</sup>, 2003. The required public comment period ended on May 9<sup>th</sup>, 2003. DCLU received no comments on this proposal.

#### **ANALYSIS - SHORELINE SUBSTANTIAL DEVELOPMENT**

Section 23.60.030 of the Seattle Municipal Code provides criteria for review of a shoreline substantial development permit and reads: *A substantial development permit shall be issued only when the development proposed is consistent with:*

- A. *The policies and procedures of Chapter 90.58 RCW;*
- B. *The regulations of this Chapter; and*
- C. *The provisions of Chapter 173-27 WAC*

*Conditions may be attached to the approval of a permit as necessary to assure consistency of the proposed development with the Seattle Shoreline Master Program and the Shoreline Management Act.*

Chapter 90.58 RCW is known as the Shoreline Management Act of 1971. It is the policy of the state to provide for the management of the shorelines of the state by planning for and fostering all reasonable and appropriate uses. This policy seeks to protect against adverse effects to the

public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life, while protecting generally public rights of navigation and corollary incidental rights. Permitted uses in the shorelines shall be designed and conducted in a manner to minimize, insofar as practical, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water. The proposed improvements to Shilshole Bay Marina would not adversely impact the state-wide interest of protecting the resources and ecology of the shoreline, and the improvements would provide for the continued operation of a facility that is dependent upon its location in a shoreline of the state. The subject application is consistent with the procedures outlined in RCW 90.58.

The Shoreline Management Act provides definitions and concepts, and gives primary responsibility for initiating and administering the regulatory program of the Act to local governments. The Department of Ecology is to primarily act in a supportive and review capacity, with primary emphasis on ensuring compliance with the policy and provisions of the Act. As a result of this Act, the City of Seattle adopted a local shoreline master program, codified in the Seattle Municipal Code at Chapter 23.60, that also incorporates the provisions of Chapter 173-27, WAC. Title 23 of the Municipal Code is also referred to as the Land Use and Zoning Code. Development on the shorelines of the state is not to be undertaken unless it is consistent with the policies and provisions of the Act, and with the local master program. The Act sets out procedures, such as public notice and appeal requirements, and penalties for violating its provisions which have also been set forth in the Land Use Code.

In evaluating requests for substantial development permits, the Director must determine that a proposed use meets the relevant criteria set forth in the Land Use Code. The Shoreline Goals and Policies, part of the Seattle Comprehensive Plan, and the purpose and locational criteria for each shoreline environment must be considered. A proposal must be consistent with the general development standards of section 23.60.152, the specific standards of the shoreline environment and underlying zoning designation, any applicable special approval criteria, and the development standards for specific uses.

The proposed development actions occur on land classified as a waterfront lot (SMC 23.60.924) and is located within an Urban Stable (US) shoreline environment. The proposed improvements are associated with a marine retail sales and services facility and as such are a permitted use in the US shoreline environment and the underlying C1 40' zone.

### **Shoreline Policies**

All discretionary decisions in the shoreline district require consideration of the Shoreline Goals and Policies, which are part of the Seattle Comprehensive Plan's Land Use Element, and consideration of the purpose and locational criteria for each shoreline environment designation contained in SMC 23.60.220. The policies support and encourage the establishment of water dependent uses existing at Shilshole Bay Marina (please refer to Land Use Policies L339 and L342). An area objective for this portion of the Puget Sound is to reserve waterfront lots for marine retail sales and services while at the same time to protect and enhance migratory fish routes and feeding areas (please refer to Area Objectives for Shorelines of Statewide Significance, Policy L354 1d). The purpose of the Urban Stable (US) environment as set forth in Section 23.60.220 C7 is to support water-dependent uses by providing services such as marine-related retail and moorage at Shilshole Bay Marina.

The proposed improvements to Shilshole Bay Marina would facilitate the continued and enhanced operation of an existing marine retail sales and services facility, a use supported by both the purpose of the US shoreline environment and the policies set forth in the Land Use Element of the Comprehensive Plan. Replacement of the existing structure at the Central Pier with a new pre-manufactured shed will increase operational efficiency and enhance worker safety.

**SMC 23.60.152 - Development Standards for all Environments**

These general standards apply to all uses in the shoreline environments. They require that design and construction of all uses be conducted in an environmentally sound manner, consistent with the Shoreline Management Program and with best management practices for the specific use or activity. All shoreline development and uses are subject to the following:

- A. The location, design, construction and management of all shoreline developments and uses shall protect the quality and quantity of surface and ground water on and adjacent to the lot and shall adhere to the guidelines, policies, standards and regulations of applicable water quality management programs and regulatory agencies. Best management practices such as... ..fugitive dust controls and other good housekeeping measures to prevent contamination of land or water shall be required.
- B. Solid and liquid wastes and untreated effluents shall not enter any bodies of water or be discharged onto the land.
- C. Facilities, equipment and established procedures for the containment, recovery and mitigation of spilled petroleum products shall be provided at recreational marinas, commercial moorage, vessel repair facilities, marine service stations and any use regularly servicing vessels....
- D. The release of oil, chemicals or other hazardous materials onto or into the water shall be prohibited. Equipment for the transportation, storage, handling or application of such materials shall be maintained in a safe and leak proof condition. If there is evidence of leakage, the further use of such equipment shall be suspended until the deficiency has been satisfactorily corrected.
- E. All shoreline developments and uses shall minimize any increases in surface runoff, and control, treat and release surface water runoff so that receiving water quality and shore properties and features are not adversely affected. Control measures may include, but are not limited to, dikes, catchbasins or settling ponds, interceptor drains and planted buffers.
- F. All shoreline developments and uses shall utilize permeable surfacing where practicable to minimize surface water accumulation and runoff.
- G. All shoreline developments and uses shall control erosion during project construction and operation.
- H. All shoreline developments and uses shall be located, designed, constructed and managed to avoid disturbance, minimize adverse impacts and protect fish and wildlife habitat

conservation areas including, but not limited to, spawning, nesting, rearing and habitat areas, commercial and recreational shellfish areas, kelp and eel grass beds, and migratory routes. Where avoidance of adverse impacts is not practicable, project mitigation measures relating the type, quantity and extent of mitigation to the protection of species and habitat functions may be approved by the Director in consultation with state resource management agencies and federally recognized tribes.

- I. All shoreline developments and uses shall be located, designed, constructed and managed to minimize interference with or adverse impacts to beneficial natural shoreline processes such as water circulation, littoral drift, sand movement, erosion and accretion.
- J. All shoreline developments and uses shall be located, designed, constructed and managed in a manner that minimizes adverse impacts to surrounding land and water uses and is compatible with the affected area.
- K. Land clearing, grading, filling and alteration of natural drainage features and landforms shall be limited to the minimum necessary for development. Surfaces cleared of vegetation and not to be developed shall be replanted. Surface drainage systems or substantial earth modifications shall be professionally designed to prevent maintenance problems or adverse impacts on shoreline features.
- L. All shoreline development shall be located, constructed and operated so as not to be a hazard to public health and safety.
- M. All development activities shall be located and designed to minimize or prevent the need for shoreline defense and stabilization measures and flood protection works such as bulkheads, other bank stabilization, landfills, levees, dikes, groins, jetties or substantial site regrades.
- N. All debris, overburden and other waste materials from construction shall be disposed of in such a way as to prevent their entry by erosion from drainage, high water or other means into any water body.
- O. Navigation channels shall be kept free of hazardous or obstructing development or uses.
- P. No pier shall extend beyond the outer harbor or pierhead line except in Lake Union where piers shall not extend beyond the Construction Limit Line as shown in the Official Land Use Map, Chapter 23.32, or except where authorized by this chapter and by the State Department of Natural Resources and the U.S. Army Corps of Engineers.

As proposed and as conditioned below, the project complies with the above shoreline development standards. As conditioned, the short-term construction related activities should have minimal effects on migratory fish routes and do not warrant further conditioning.

The proposal is subject to a Hydraulics Project Approval (HPA) permit from the Washington State Department of Fisheries and Wildlife.

The Stormwater, Grading and Drainage Control Code (SMC 22.800) places considerable emphasis on improving water quality. In conjunction with this effort DCLU developed a

Director's Rule 2000-16, to apply best management practices (BMPs) to prevent erosion and sedimentation from leaving construction sites or where construction will impact receiving waters. Due to the extent of the proposed work associated with removal and installation of storage shed and four, 250-gallon capacity oil tanks, the potential exists for impacts to Puget Sound during construction. Therefore, approval of the substantial development permit will be conditioned to require application of construction best management practices (BMPs). Completion of the attachment to the Director's Rule and adherence to the measures outlined in the attachment shall constitute compliance with BMP measures.

### **SMC 23.60.600 – Development standards for the US Environment**

The proposal conforms to all of the development standards for the US environment.

### **Conclusion**

SMC Section 23.60.064 E provides authority for conditioning of shoreline substantial development permits as necessary to carry out the spirit and purpose of and assure compliance with the Seattle Shoreline Code, Chapter 23.60, and with RCW 90.58.020 (State policy and legislative findings).

WAC 173-27 establishes basic rules for the permit system to be adopted by local governments, pursuant to the language of RCW 90.58. It provides the framework for permits to be administered by local governments, including time requirements of permits, revisions to permits, notice of application, formats for permits, and provisions for review by the state's Department of Ecology (DOE). As the Seattle Shoreline Master Program has been approved by DOE, consistency with the criteria and procedures of SMC Chapter 23.60 is also consistency with WAC 173-27 and RCW 90.58.

Thus, as conditioned below, the proposal is consistent with the criteria for a shoreline substantial development permit and may be approved.

### **DECISION - SHORELINE SUBSTANTIAL DEVELOPMENT**

The Shoreline Substantial Development permit is **CONDITIONALLY GRANTED** subject to the conditions listed at the end of this report.

### **ANALYSIS - SEPA (for conditions only)**

The applicant submitted an environmental checklist dated March 5<sup>th</sup>, 2003 and threshold determination for this project dated March 10<sup>th</sup>, 2003. The information in the checklist, construction plans, information submitted by the applicant and the experience of the Department with the review of similar projects form the basis for this analysis and decision.

Construction activities could result in the following adverse impacts: emissions from construction machinery and vehicles; increased dust levels associated with grading and demolition activities; increased noise levels; occasional disruption of adjacent vehicular traffic, and small increase in traffic and parking impacts due to construction workers' vehicles. All of these impacts are minor in scope and of short duration. Several construction-related impacts are

mitigated by existing City codes and ordinances (such as the Stormwater, Grading and Drainage Control code and Street Use ordinance, and mitigating measures described above pursuant to the Shoreline Master Program) applicable to the project. Since the proposal site is located in a commercial area, noise impacts would be sufficiently mitigated by the Noise Ordinance and no other measures or conditions are warranted.

### **CONDITIONS - SHORELINE**

#### **During Construction**

1. The owner(s) and/or responsible party(ies) shall take care to prevent debris from entering the water during construction and to remove debris promptly if it does enter the water. Materials and construction methods shall be used which prevent toxic materials, petrochemicals and other pollutants from entering surface water during and after construction.
  - a. A containment boom should be employed during all demolition and debris removal activities. The boom will serve to collect any floating debris, which may result these activities. Oil absorbent materials must be employed if floating oil sheen is observed. The boom should remain in place until all material and floating debris have been collected. Used absorbent materials should be disposed of in an appropriate upland facility.
  - b. The appropriate equipment and material for hazardous material cleanup must be kept at the site.
2. All disposed materials must be deposited in a landfill, which meets the liner and leachate standards of the Minimum Functional Standards, Chapter 173-304 WAC.

### **CONDITIONS - SEPA**

None.

Signature: (signature on file) Date: July 10, 2003  
Colin R. Vasquez, Land Use Planner  
Department of Design, Construction and Land Use